

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRELL O'NEAL,

Plaintiff,

No. CIV S-04-0260 LKK JFM P

vs.

WHITE, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed October 12, 2005, plaintiff's second amended complaint was dismissed and thirty days leave to file a third amended complaint was granted. By order filed November 18, 2005, plaintiff's request for an extension of time was granted and plaintiff was given an additional period of thirty days in which to file a third amended complaint. The latter thirty day period has now expired, and plaintiff has not filed a third amended complaint or otherwise further responded to the court's order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty

1 days after being served with these findings and recommendations, plaintiff may file written
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's
3 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
5 F.2d 1153 (9th Cir. 1991).

6 DATED: January 3, 2006.

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9 UNITED STATES MAGISTRATE JUDGE

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